

Frequently Asked Questions regarding Senate Bill (SB) 172

Q1. Where do we find the provisions of SB 172 in the Kentucky Revised Statutes (KRS)?

A1. Several places:

- KRS 156.160(4) sets out penalties for violating the competitive food sales provisions;
- KRS 158.850 deals with access to contracted retail fast foods;
- KRS 158.852 deals with qualification of school food service directors;
- KRS 158.854 deals with administrative regulations and competitive food sales;
- KRS 158.856 deals with assessment and reports of the nutrition and physical activity environments; and
- KRS 160.345(11) deals with physical activity policies in K-5 schools.

Q2. What does SB 172 require districts to actually do?

A2. KRS 158.856 requires that districts annually assess the nutrition and physical activity environments, report the results of that assessment to parents, local board members and school council members, and make recommendations to improve those environments.

Q3. What does SB 172 require local school boards to actually do?

A3. KRS 158.856(4) requires that local boards discuss the findings of both the nutrition and physical activity reports and solicit public comments on those reports. KRS 158.856(5) requires that boards annually present a plan to improve the nutrition and physical activity environments in the district. That annual presentation must take place on or before January 31 at an advertised public forum (can be a regularly scheduled board meeting). The required plan should suffice to fulfill the requirements of federal law from the Child Nutrition and WIC Reauthorization Act of 2004; Section 204 of which requires that districts adopt “local wellness policies” setting goals for nutrition education and physical activity; setting nutritional standards for food available on campus and implementing a plan to meet the required goals that have been set.

Simply put, local boards are to take the results of the assessment of the nutrition and physical activity environments as an indication of where they “are” and then use the recommendations for improvement to develop, prioritize and implement a multi-phase plan to improve nutrition and physical activity in the district. We recommend that the plan to improve nutrition and physical activity in the district be incorporated into the Comprehensive District Improvement Plan.

Q4. How do districts assess the nutrition and physical activity environments?

A4. The Kentucky Department of Education (KDE) has provided districts with

an assessment tool to use, if it desires. Otherwise, the district may use any other tool it is comfortable with to conduct the assessments. KDE has provided each district (through the Food Service Director) a CD-ROM that contains the Standards and Indicators for School Nutrition Programs and Module 3 of the School Health Index that deals with Physical Education and Other Physical Activity Programs.

Q5. What type of report must be issued? Is there a specific format required?

A5. KRS 158.856(1) is very specific with regard to the report of the assessment of the nutrition environment. That report must include:

- an evaluation of the district's compliance with the school breakfast and lunch programs; an evaluation of the availability of contracted fast foods;
- a review of access to foods and beverages sold outside the school lunch and breakfast programs whether through vending machines, school stores canteens, or as a la carte items on the cafeteria lines;
- a list of foods and beverages that are available to students including the nutritional value of those food and beverages; and
- recommendations for improving the school nutrition environment.

There is no detail provided in KRS 158.856(3) regarding the report on the physical activity environment. There is no specific report format required by the statute. KDE has provided a suggested format to districts on the previously-mentioned CD-ROM, but districts are free to design their own format.

Q6. A "list of foods and beverages available to students, including the nutritional value of those foods and beverages"? In our district, that list is 350 items long!! Surely, we don't have to print a 350+ page report and mail it to every household!?!

A6. We understand and emphasize that KRS 158.856(1) does not require you to mail a report to every household. You are required to "issue a written report to parents". That can be accomplished by sending the report home with students (we recommend elementary students) in homework folders or "Friday" folders, for example. We recommend that you make the report and list available on the district website with a hard copy of the list at each school library. The report format alluded to, earlier, is one page, front and back, and can be produced with a medium quality color printer.

Q7. When does the report have to be issued?

A7. The statute is silent with respect to that issue. However: 702 KAR 6:090; adopted by the Kentucky Board of Education (KBE) in October, but not effective as of the date of this writing, requires that the report be issued 60 days prior to the January 31 board hearing required in KRS 158.856(5). Accordingly, there is no required report deadline for the 05-06 school year. Once this part the regulation becomes effective (basically for the 06-07 school year and thereafter) the deadline for issuing the report will be November 30 of each year.

Q8. What does SB 172 require schools to actually do?

A8. Several things:

- First, all schools will have to abide by the nutritional standards for foods and beverages that are in the administrative regulation promulgated by the Kentucky Board of Education, as required by KRS 158.854 (when the regulation becomes effective), unless a waiver is sought and granted.
- Second, all schools will have to abide by the provisions of KRS 158.854(3) dealing with competitive food sales.
- Third, elementary schools will have to abide by the beverage standards in KRS 158.854(4).
- Fourth, schools containing grades K-5, or any combination thereof, must adopt and implement what the statute [KRS 160.345(11)] refers to as a “local wellness policy” providing for daily moderate to vigorous physical activity for students and encouraging healthy choices. If they desire, schools may use up to 30 minutes of the instructional day to provide for physical activity.
- Fifth, principals in these schools (grades K-5 or any combination thereof) must annually assess each student’s level of physical activity.

Q9. How many minutes of physical education (PE) and/or physical activity (PA) do schools have to provide to meet the requirements of SB 172? (Remember we are talking about SB 172 here, not high school graduation requirements.)

A9. None. The statute does not establish any minimum amount. Instead, schools (especially elementary schools) need to assess how much time is scheduled for PE/PA and decide if more time should be scheduled for that purpose. If a K-5 school wants to set aside more time for additional PE/PA, then the statute [KRS 160.345(11)] allows that school to use up to 30 minutes a day of the instructional day for that purpose.

Q10. How does an elementary school assess the level of physical activity of each student, pursuant to KRS 160.345(11)?

A10. There is no single way to do that. Schools could develop a spreadsheet or other tools that provide information on PE/PA opportunities that each student is engaged in during the school day, after school and on week ends. The selected assessment could be completed by students or teachers. A sample of such a spreadsheet has been provided to districts, again on the previously-mentioned CD-ROM provided to the Food Service Director in each district. The statute does not mandate a format. It does require that schools do the assessment. The question is, “How physically active are the children in the school”?